COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATION AND ENERGY

Verizon New England Inc. d/b/a Verizon Massachusetts Performance Assurance Plan.	)	D.T.E. 03-50

REPLY COMMENTS OF VERIZON MASSACHUSETTS

On July 8, 2003, Verizon Massachusetts ("Verizon MA") filed with the Department a proposal to amend the audit requirement of the Performance Assurance Plan ("PAP") to provide for audits on a tri-annual rather than an annual basis. In response to the Department's request for comments (*see* July 21, 2003 Hearing Officer Memorandum), only AT&T made a filing, and it opposes the request. As discussed below, AT&T's position is without merit. Accordingly, the Department should approve Verizon MA's proposal.

I. AT&T Ignores and Mischaracterizes the Strong Evidence of Verizon's Proven Track Record in Accurately Reporting Performance Results.

AT&T suggests that Verizon MA's proposal is based on a single audit conducted by PricewaterhouseCoopers ("PwC") in Massachusetts which AT&T asserts showed "subpar" performance (AT&T Comments at 1-2). AT&T's claims are clearly erroneous.

First, contrary to AT&T's assertion, Verizon MA's request is based not only on the favorable PwC audit in Massachusetts, but also on the outcomes of similar evaluations elsewhere. AT&T ignores that since 1999, when the FCC approved

Verizon's application for long distance entry in New York, Verizon has undergone numerous metrics evaluations in connection with its 271 applications. All of those have been favorable. Within the last two years alone, Verizon successfully completed rigorous state 271 metric evaluations by KPMG and attestations by PwC in the states of Virginia, Maryland, West Virginia and the District of Columbia. In addition, Verizon successfully completed, with no adverse opinions from the auditors, its FCC Wholesale Metrics merger audit (Merger Condition 5) for the years 2000 and 2001 (performed by PwC) and 2002 (performed by Ernst and Young) along with the Massachusetts PAP audit for 2002 and the Massachusetts *Consolidated Arbitrations* audits for years 2000 and 2001. The accuracy of Verizon's reporting of performance results has been tested time and time again by independent third parties and has passed that rigorous testing.

Second, AT&T's assertion that PwC's Massachusetts audit revealed "subpar" compliance is just flat-out wrong. PwC determined that there were just three instances of "material noncompliance" affecting only three of the 252 metrics reported for the evaluation period of May 2002. This represents an error rate of approximately 1 percent. Clearly, under any measure, Verizon MA's performance was excellent; indeed, it was nearly perfect. Based on the strong results, the Department rightly concluded that "no substantive changes in Verizon's PAP processes and procedures are necessary." (The Department's Letter Order in D.T.E 99-271, dated March 13, 2003, page 3.) Moreover, the instances of material noncompliance identified in the audit did not affect bill credits to Massachusetts CLECs and were corrected even before the audit was concluded. *See* Verizon MA letter dated April 14, 2003. The fact that AT&T views this as "sub-par" only highlights the unreasonableness of its position.

In short, AT&T's claim that annual audits are necessary to ensure that the data are being produced and reported accurately ignores the evidence of accurate reporting. Verizon has established repeatedly – as it did in the recent PwC Massachusetts audit – that its PAP reporting is accurate. Annual auditing is expensive and consumes substantial resources, and Verizon should not be required to bear that significant burden – which is to AT&T's advantage as a competitor – where the record establishes a consistent history of accurate reporting. Verizon MA's request does not eliminate the audit requirement but provides for a more reasonable period between audits that is completely appropriate given Verizon's strong performance.

II. Annual Auditing Is Unnecessary to Ensure That Verizon MA Continues to Provide High Quality Wholesale Services.

AT&T contends that annual audits are necessary because otherwise Verizon would have "free rein" to degrade service between audits (AT&T Comments at 6) and that "[t]he Department's recent finalization of UNE rates in Massachusetts will bring a new level of competition that will mean that Verizon's systems and processes for Massachusetts will be tested for the first time" (*id.*, at 2). Its claims are completely without merit.

Verizon MA's service results are well documented, and predate the existence of a PAP audit. Interconnection agreements, the *Consolidated Arbitration* Performance Plan, and the Carrier-to-Carrier ("C2C") reports are comprehensive mechanisms that establish the service levels Verizon MA provides to carriers. To meet these reporting requirements, Verizon necessarily has to have the systems and processes in place to collect the performance data in accordance with the applicable criteria so that it can calculate and report its performance results. The PwC Massachusetts audit, as well as audits in other Verizon East states which use substantially similar metrics as in Massachusetts, confirm that those internal systems and processes are in place and work to generate accurate performance results.

In addition, Verizon MA has instituted rigorous internal controls to ensure the continued quality and accuracy of its performance reports. These controls include, but are not limited to, the change control process, quality reviews, internal auditing, training, and methods and procedures. Indeed, it is precisely because of these internal controls that Verizon has been able to demonstrate strong results as reported in the PwC Massachusetts audit and in audits in other states.

For AT&T to even suggest that Verizon MA would (or could) dismantle this entire system for several years between audits is ludicrous. In fact, any slippage in reporting accuracy could easily be identified by CLECs because they receive their own performance data and results and thus can readily verify the continuing accuracy of Verizon's reporting.[1]

AT&T's claim that its entry into the Massachusetts residential market by using UNE-P means that Verizon's systems will be tested for the first time thus indicating the need for annual auditing is also plainly erroneous. Auditing only verifies results and has nothing to do with how Verizon MA actually performs. Regarding Verizon MA's performance, AT&T's concerns are belied by the facts.

[1] AT&T points to other jurisdictions, specifically Maryland and Virginia, where PAP audits are being required. Unlike Massachusetts, each of these states are undertaking their first PAP audits. Importantly, since the Maryland and Virginia plans are substantially the same as the Massachusetts PAP, the audits in those states will provide the Department with additional information about the data accuracy and reporting of the Massachusetts PAP. Should these audits identify any issues with the software code for data collection and reporting of the PAP results which affect the entire Verizon-East region, a "fix" to the code would be implemented for the region. The ubiquity of the PAP in most former Bell Atlantic jurisdictions and common systems and processes used by Verizon makes annual audits in many jurisdictions redundant.

The Massachusetts C2C reports for January 2003 through June 2003 – when AT&T's mass market campaign was in full swing – establishes that Verizon MA's UNE-P performance results were very strong and consistent with past periods. This should come as no surprise since KPMG found in its September 2000 Capacity Management Evaluation that Verizon's OSS and processes are designed in a manner that would allow them to scale to meet increases in demand.[2]

The fact is that Verizon MA has been able to maintain or improve upon its performance while order volumes have significantly increased. Additionally, if Verizon MA were to experience a dramatic increase in CLEC activity and that increase adversely impacted performance, the reported results, both C2C and PAP, would reflect the impact in the month it occurred, providing more timely information than an audit performed many months after the event.

III. AT&T's Reliance on the Draft Audit by Liberty in New Jersey is Misplaced.

AT&T points to a recent draft audit by Liberty Consulting in New Jersey[3] as evidence that Verizon MA's claim of a strong track record of reporting accuracy is "grossly overstated" (AT&T Comments at 4). Here too, AT&T is wrong and ignores the evidence.

As previously noted, New Jersey is the only state in the former Bell Atlantic footprint which did not adopt Verizon's C2C metrics guidelines and PAP plans that are in place elsewhere, including Massachusetts. *See* Verizon Letter to Secretary Cottrell dated

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2 Bell Atlantic OSS Evaluation Project, Final Report, Version 1.4, submitted to the Department by KPMG September 7, 2000, ("MA KPMG Final Report") at Test POP-8, pages 227-238; MR9, pages 373-381; BLG7, pages 483-494.

3 *Draft Report on the Review of the Monthly Performance Reports and the Associated Incentive Plan Payment Reports Filed by Verizon New Jersey*, ("Draft Liberty Report") dated June 7, 2003.

July 8, 2003. Therefore, findings regarding the New Jersey plans are not relevant to any consideration of the Massachusetts PAP. What is relevant – which AT&T persistently ignores or misrepresents – is that PwC audited the Massachusetts PAP and concluded that reporting was accurate. Audits of substantially similar Verizon plans in other jurisdictions produced the same result. AT&T discounts these audits and instead focuses on the audit findings regarding a different plan in New Jersey which says nothing about the accuracy of reporting under the Massachusetts PAP and similar plans.

Regarding the Draft Liberty Report, it is only a draft; the final report has not yet been published. AT&T is well aware that Verizon NJ has filed substantial comments on many of Liberty's preliminary conclusions and established that they are seriously flawed. *See* Attachment 1. For example, although Liberty notes that it found a lack of documentation,[4] Verizon NJ pointed in its comments to the documentation provided to Liberty and showed that clear and complete documentation was provided for each data element from the receipt of the source files through and including the metric calculation process. Significantly, inadequate documentation of methods and processes used to calculate and report Massachusetts' results has not been a finding in any of the audits of the Massachusetts PAP or Massachusetts *Consolidated Arbitrations* reports.

AT&T also fails to note that despite finding flaws, the Liberty Report generally concluded that, when corrected, the performance results did not change significantly.

[4] AT&T repeatedly mischaracterizes or omits key finding from the Liberty Report. For instance, on the issue of documentation, Liberty concluded that Verizon reports were nevertheless reasonably accurate. AT&T also cites to a finding that Verizon NJ did not provide the calculations and details necessary to prove that the payment amounts are correct. However, AT&T omits Liberty's finding that "Verizon appears to be calculating incentive payments correctly given Verizon's metric results." In Massachusetts, the PwC audit did test the credit process and found it to be accurate. (Report of Independent Accountants, submitted to the Massachusetts DTE by PwC, January 31, 2003, page 1.)

Indeed, Liberty concluded that "Verizon uses the data it records to produce reasonably accurate performance and IP results" (Draft Liberty Report at 9).

The fact that the Department should focus on is what has been Verizon's record for reporting under the PAP. That record is very strong as evidenced by the PwC Massachusetts audit and audits of substantially similar plans in other states. AT&T's extensive discussion of a draft report in New Jersey that examined a different plan is just a misguided effort to divert attention from the relevant facts that fully support Verizon MA's position here.

IV. The New York PAP Audit Requirements Support Verizon MA's Proposal.

AT&T takes issue with a claim Verizon MA made in its July 8th letter to the Department to the effect that the New York Commission has not exercised its discretion to require an audit in response to CLEC requests (AT&T Comments at 5). AT&T asserts that Verizon omitted crucial information, specifically that CLECs have requested an annual audit. Contrary to AT&T's claim, Verizon MA accurately stated the situation in New York.

Two CLECs, AT&T and WorldCom, did in fact propose that an independent auditor be utilized to conduct the annual New York PAP review. However, the New York Commission rejected their request. In its Order Amending Performance Assurance Plan[5], issued January 24, 2003, the New York Commission stated,

> (w)hile there is value in assuring the accuracy of performance reporting, our three years' experience with the PAP indicates no present need to seek further assurances. Since the inception of the PAP, the Commission has addressed a wide array of technical and operational issues,

5 New York Public Service Commission Case 99-C-0271, Order Amending Performance Assurance Plan, issued and effective January 24, 2003.

> which together constitute comprehensive review of Verizon's OSS, its quality control, and the accuracy of its data. Numerous metric modifications and new metrics have been incorporated into the PAP from the Carrier Guidelines or established specifically for the PAP (e.g., EDI Special Provisions) as a direct result of ongoing monitoring of Verizon performance. Further because there have been few specific complaints by the CLECs regarding the aforementioned issues, there is not sufficient evidence to justify the expense associated with the extensive audits contemplated by the CLECs. (Order at page 10.)

In preparation for the 2003 annual New York PAP review, AT&T and MCI filed comments on June 23, 2003, in which they once again requested an annual audit by a third party. Verizon NY filed its reply to the CLEC comments on July 2, 2003, objecting to their request since the New York Commission just rejected the identical proposal. Verizon MA's report of events in New York was accurate and the action taken by the New York Commission supports Verizon MA's position here.

AT&T goes on to state that the New York Commission's Order required Verizon NY to provide the Structured Query Language ("SQL") algorithms to the Commission and the CLECs. AT&T claims that Massachusetts lacks a similar vehicle and, therefore, AT&T recommends that the Department reject Verizon MA's request to extend the time period between audits. AT&T is once again wrong.

On July 25, 2003, consistent with the PAP Guidelines, Verizon MA provided the Department with a copy of the Carrier-to-Carrier Metric Algorithms ("CMAs"). The Massachusetts' CLECs receiving PAP reports were given notice of this filing. In its Motion for Confidential Treatment in D.T.E. 03-50, Verizon MA stated that it would provide the CMAs to a CLEC upon request and pursuant to a Protective Agreement and a Licensing Agreement. To date, no CLEC has made a request of Verizon MA for the CMAs.

V. The Department Should Reject AT&T's Suggestion to Expand the Existing Audit Requirement.

AT&T argues that not only should the annual audit requirement be retained but also it should be expanded to allow for "procedural participation by the CLECs" (AT&T Comments at 3-4). AT&T's position is without merit and should be rejected.

AT&T's claim that participation is necessary to enable it to verify Verizon's reporting is simply untrue. As the Department is well aware, CLECs already have the ability to verify their specific performance data. The CLECs have access to their CLEC-specific raw data via Verizon's Wholesale Internet Service Engine ("WISE") system. CLECs can compare the WISE data to their own records to ensure that Verizon is capturing and reporting their specific performance accurately. Since the implementation of the Massachusetts PAP in 2000, Verizon MA's wholesale performance data has never been questioned by a CLEC. Moreover, AT&T's allegation that it receives information from its sales and marketing teams describing instances of discriminatory treatment is unsupported by any facts. Despite this serious charge, AT&T has filed no complaint with the Department or otherwise sought to address its concerns.

AT&T notes that CLECs participate in audits in New Jersey and Pennsylvania. Of course, the majority of states do not provide for CLEC participation, and for good reason. The audit should not be an opportunity for either Verizon or CLECs to engage in regulatory gamesmanship. The objective of the audit is to test whether the data generation and calculation are performed correctly and reporting requirements are met. An independent audit as conducted by PwC here is the appropriate means to verify the accuracy of the PAP.

Even AT&Ts reliance on the experience in New Jersey and Pennsylvania is misplaced. AT&T fails, for instance, to note that the New Jersey Incentive Plan ("IP") provides that if a CLEC requests an audit after the first year of the plan, the CLEC must split the cost of the audit with Verizon NJ. *See* Verizon New Jersey Incentive Plan for the State of New Jersey, dated October 2001, Revised April 2002, page 11. In addition, CLEC participation in the Liberty New Jersey audit was marginal at best. As Verizon NJ explained in its response to Liberty's Draft Audit Report, "of the twenty CLECs whom Liberty canvassed for information, only one in four even apparently responded in any detail, let alone with the volumes of information and hundreds of hours of interviews that Verizon NJ provided over a six-month span." *See* Attachment 1 at 1. The fact that AT&T is the only CLEC to object to Verizon MA's proposal in this case indicates the level of CLEC participation the Department could expect.

CONCLUSION

The Department should approve Verizon MA's proposal to revise its annual audit requirements to provide for a tri-annual audit; beginning in 2005 and cover no more than the most recent 12 months. Such a schedule is reasonable, and nothing AT&T presents in its comments provides cause for the Department to reject Verizon MA's proposal.

Respectfully submitted,

VERIZON MASSACHUSETTS

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Bruce P. Beausejour
185 Franklin Street, 13th Floor
Boston, Massachusetts 02110-1585
(617) 743-2445

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